

General Information Letter: The income producing activity of a chain of concerts is generally carried out where the concerts are performed.

December 27, 2007

Dear:

This is in response to your letter dated July 28, 2007 in which you request a letter ruling. The following is in response to your request with respect to Illinois income tax. The nature of your request and the information provided with respect to Illinois income tax requires that we respond with a General Information Letter (GIL). A GIL is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code § 1200.120(b) and (c), which may be accessed from the Department's web site at [www.Iltax.com](http://www.Iltax.com).

Your letter states as follows:

My client is a sole proprietor that will have a MUSIC concert at a University in Illinois. The following is additional information regarding the business:

1. Is a sole proprietor, whose residency is in STATE.
2. Organizes and hires musicians to perform MUSIC outside the state of STATE.
3. Will pay a theatre and equipment rental fee to the University.
4. Earns income from concert ticket sales.
5. Promotes MUSIC to students and the general public.

We called your office and were advised to mail a written request for information:

1. Is the sole proprietorship subject to Sales and Use taxes in Illinois for concert ticket sales?
2. Are there any other taxes that would have to be paid on these concert ticket sales?

## **RULING**

Section 502(a) of the Illinois Income Tax Act ("the IITA" ; 35 ILCS 5/101 *et seq.*) sets forth the requirements for filing Illinois income tax returns. That section states in pertinent part as follows:

(a) In general. A return with respect to the taxes imposed by this Act shall be made by every person for any taxable year:

- (1) For which such person is liable for a tax imposed by this Act, or
- (2) In the case of a resident or in the case of a corporation which is qualified to do business in this State, for which such person is required to make a federal income tax return, regardless of whether such person is liable for a tax imposed by this Act.

Under this section, a nonresident individual must file an Illinois income tax return if he or she incurs a liability for tax imposed under Section 201 of the IITA. A nonresident individual is liable for Illinois income tax under Section 201 if he or she derives "net income" as defined under IITA Section 202. IITA Section 202 defines net income as that portion of the taxpayer's "base income" as defined in Section 203, which is allocated or apportioned to Illinois under the provisions of Article 3 of the IITA,

less certain deductions. The above provisions may be accessed from the Department's web site.

Base income that constitutes nonbusiness income is allocated to Illinois under IITA Sections 301(c)(2) and 303. Base income that constitutes business income is apportioned to Illinois under IITA Section 304. IITA Section 304(a) provides that for taxable years ending on or after December 31, 2000, the apportionment factor for a taxpayer deriving business income from Illinois and one or more other states (other than an insurance company, financial organization, or transportation company) shall be equal to its sales factor. Section 304(a)(3)(A) defines the sales factor as a fraction, the numerator of which is the total sales of the person in Illinois during the taxable year, and the denominator of which is the total sales of the person everywhere. For taxable years ending before December 31, 2008, sales other than sales of tangible personal property are allocable to Illinois if the income-producing activity that gave rise to the receipts is performed wholly in Illinois, or the income-producing activity is performed in Illinois based on costs of performance. Department Regulations § 100.3370(c)(3)(D)(iii) states as follows with respect to gross receipts derived from the performance of personal services:

Gross receipts for the performance of personal services are attributable to this State to the extent such services are performed partly within and partly without this State, the gross receipts for the performance of such services shall be attributable to this State only if a greater portion of the services were performed in this State, based on costs of performance. Where services are performed partly within and partly without this State and the services performed in each state constitute a separate income producing activity, the gross receipts for the performance of services attributable to this State shall be measured by the ratio which the time spent in performing such services in this State bears to the total time spent in performing such services everywhere. Time spent in performing services includes the amount of time expended in the performance of a contract or other obligation which gives rise to such gross receipts. Personal service not directly connected with the performance of the contract or other obligation, as for example, time expended in negotiating the contract, is excluded from the computations. Example: Corporation X, a road show, gave theatrical performances at various locations in State X and in this State during the tax period. All gross receipts from performances given in this State are attributed to this State.

Under the above provision, your client's gross receipts from ticket sales for concerts given in Illinois will be considered Illinois sales, and may give rise to an Illinois income tax liability.

As stated above, this is a GIL. A GIL does not constitute a statement of policy that applies, interprets or prescribes the tax laws, and it is not binding on the Department.

Sincerely,

Brian L. Stocker  
Associate Counsel (Income Tax)